

THE
T R Y A L
Of Several
R I O T E R S

FOR
H I G H - T R E A S O N ;

At the Sessions-House in the Old-Bailey,
April 4. 1668.

Some of whom were afterwards Executed.

To which is added,

The J U D G M E N T of the Judges on
that Occasion, as reported by my
Lord Chief Justice *Kelyng.*

L O N D O N,

Printed for *J. Harrison* at the Royal Exchange, *A. Dodd*
at the Peacock without Temple-Bar, and *E. Pye*
next door to the *Vine* at Charing-Cross. 1715.

Price 6 d.

1x4

JUN 3 1912

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The TRYALS, &c.

UPON Easter Monday last, being the 23^d day of *March*, in the 20th year of the Reign of our Sovereign Lord the King that now is, it being the usual time of the Apprentices Liberty for their Civil Recreations, a rude multitude of People met together in *Moor-Fields*; where being so assembled, were instigated by some factious Persons amongst them; who, to colour their Design, insinuated into the Rabble the pulling down of *Bawdy-Houses*: under which colour of reforming *Bawdy-Houses*, they at length rais'd a great Hubbub; and so increasing in their Disorders, in a tumultuous manner committed many notorious Crimes. But by the Vigilancy of the Magistrates of the City, with the Assistance of his Majesty's Guards, were at last reduc'd: some of the Ringleaders whereof were apprehended, and committed to the Goal for their Offences, to receive their Tryals according to the known Laws of the Land.

And having been several times examin'd, upon Confession of some, and pregnant Proof against others, by a special Jury of several

Knights, Esquires and Gentlemen, of very great Worth and Esteem, of the County of Middlesex,

These Persons following, to wit,

<i>Peter Messenger,</i>	<i>Edward Cotton,</i>
<i>Richard Beasley,</i>	<i>Edward Bedle,</i>
<i>William Green,</i>	<i>Richard Lattimer,</i>
<i>Thomas Appletree,</i>	<i>John Sharplefs,</i>
<i>John Earles,</i>	<i>Richard Woodward,</i>
<i>William Wilks,</i>	<i>Thomas Limerick,</i>
<i>William Ford,</i>	<i>John Richardson,</i>
<i>Richard Farvell,</i>	

Were indicted of High-Treason, for levying of a publick War against our Sovereign Lord the King: And at the Goal-Delivery of *Newgate,* held at the *Sessions-House* in the *Old-Baily, London,* Apr. 1. 1668. and continu'd till the fourth Day; on which said fourth Day, in the Presence of

Sir <i>John Kelyng</i> Kt. Lord Chief Justice of his Majesty's Court of King's-Bench,	
Sir <i>Edward Atkins,</i>	} Barons of his Majesty's Court of Exchequer:
Sir <i>Christopher Turner,</i>	
Sir <i>Richard Rainsford,</i>	

Together with Sir *William Wild,* Recorder of the City of *London*; these Prisoners following, viz.

<i>Peter Messenger,</i>	<i>William Green,</i>
<i>Richard Beasley,</i>	<i>Thomas Appletree,</i>

Were

Were first call'd to the Bar to receive their Tryals ; where, after Proclamation being made, they severally pleaded to their Indictments, and put themselves for their Tryal upon their Country.

The Names of the Jury sworn,

<i>Anthony Hall,</i>	<i>Thomas Jennins,</i>
<i>William Knight,</i>	<i>John Nichols,</i>
<i>Henry Francis,</i>	<i>Ralph Bradshaw,</i>
<i>John Baker,</i>	<i>John Saving,</i>
<i>Robert Shaw,</i>	<i>John Marsh,</i>
<i>Thomas Constable,</i>	<i>Henry Kent.</i>

The Jury being sworn, the Court proceeded to Tryal.

King's Counsel, Mr. North. You Gentlemen of the Jury, these four, *Peter Messenger, Richard Beasley, William Green, and Thomas Appletree,* stand indicted for High-Treason; having left their Obedience to our Sovereign Lord the King, and being instigated by the Devil, upon the 24th day of *March* last past, did contrive a Design to levy War and Rebellion against the King, being at the Head of four or five Hundred arm'd and array'd. If this Matter be prov'd against them, you must find them guilty.

2d Counsel, Mr. Pemberton. You Gentlemen of the Jury, these Prisoners at the Bar did contrive and levy War, and fell upon the
King's

King's Officers, and beat them, and broke the Prison, and let out the Prisoners, some for Felony : among the Multitude these were four of them, as we shall endeavour to prove.

The Names of the Witnesses call'd and sworn,

<i>Richard Dowson,</i>	<i>James Martin,</i>
<i>John Cowley,</i>	<i>Abraham Brookes.</i>
<i>Henry Ball.</i>	

The OATH.

THE Evidence you shall give between our Sovereign Lord the King and the Prisoners at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth. So help you God.

Counsel. Sir, pray tell my Lord what you see these do on *Easter Tuesday*.

Witness. My Lord, I saw this *Richard Beasley* at the head of four or five hundred; he had a Sword, and I took his Sword from him: he had Colours, a green Apron upon a Pole. I heard some of them cry, *Down with the Red-coats*; and I did see *William Green* there too, but not *Appletree*.

Lord Chief Justice. Did they go with the multitude or no, or were they with them?

Witn. They were with them; but I cannot say they went along with them.

Couns. Pray tell my Lord what the Multitude said at that time.

Witn.

Witn. When we fell on them, they run away.

Ld. Ch. J. Did *Beasley* lead them on?

Witn. They said he was their Captain.

John Cowley Second Witness.

Couns. Mr. *Cowley* tell my Lord what you saw.

Cowley. My Lord, he cut me and wounded me on the Hand. The Constable charg'd them to be gone, and disperse themselves; with that they struck at the Constable, and knock'd him down.

Ld Ch. J. Under what Pretence did they pull down any House?

Witn. The Constable, and some more of us, beat them up *Nightingale Lane*; I know not what their Pretence was: I saw *Appletree* there, for he was the first that struck at the Constable. This was on *Easter Tuesday*.

Ld Ch. J. Did you see *Green* there?

Witn. I cannot tell.

Ld Ch. J. Did you see them pull down any House? What did you hear them say?

Witn. They said, *Down with the Bawdy-houses.*

Ld Ch. J. Did you hear them talk of the Redcoats there? Was *Green* amongst them as one that help'd and acted with them?

Witn. I saw him in *Moor-fields* on *Monday, Tuesday, and Wednesday*, shout and throw up his Hat.

Third

Third Witness.

Ld Ch. J. What did you see them do?

Witn. All that I saw, was, that *Peter Messenger* came along with the Colours in his Hand, and I took him and carry'd him to Prison my self: I did not hear them cry, Down with honest Houses, but *Bawdy-houses*: I did not see all those, but only these two, (pointing to two at the Bar.)

Ld Ch. J. Ay, that was the Captain and the Ensign.

Fourth Witness, Henry Bull. My Lord, I saw this *Beasley* and *Messenger* in *Moorfields*, pulling down Houses on Monday and on Tuesday at the head of three hundred; and at that time we routed them. On Wednesday they came with four or five hundred, and cry'd, *Down with the Redcoats.*

James Martin, Fifth Witness.

Ld Ch. J. What can you say?

Witn. All I know is, *Beasley* made a blow at our Ensign, and struck at him with his Sword.

Ld Ch. J. What was their Pretence?

Witn. I cannot tell that.

Another Witn. I see *Thomas Appletree* help to pull down *Peter Burlingham's* House, and broke another.

Serj. Wild. What Company had they?

Witn. About three hundred.

Ld Ch. J. Had they any Colours? What did you hear them declare?

Witn.

Witn. I heard them declare nothing, for I had like to have been knockt on the head.

Ld Ch. J. to the Prisoner *Beasley*; Well, what do you say for your self? you hear it is sworn against you, that you were at the head of this Rabble, and they call'd you Captain, and you led them up; and when the Constable came to command Peace in the King's Name, you fell on him, and wounded him, so that he is hardly able to be here this day: Why did you gather this Multitude together? It will behove you to make your Answer; what Reason had you for it?

Beasley Pris. I do not know the Reason.

Ld Ch. J. I speak to you, that you should give a Reason: After all this Trouble that we have had in this Nation, it is a sad thing that a great number of giddy-headed People must gather together, under pretence of Reformation, to disturb the Peace of the Nation again; if you can say no more for your self, there will be little trouble with you.

Serj. Wilde. What was the meaning of your gathering together?

Beasley Pris. We went to pull down Bawdy-Houses.

Ld Ch. J. How did you know which were Bawdy Houses? If you had known them, you might have indicted them, there is Law against them; but this is a strange kind of Reformation, if a Rabble come, and says, This Man is a Papist, and this keeps a Bawdy-
B House,

House, and wou'd pull it down ; this is a mad Reformation.

Messenger Pris. My Lord, that Man has sworn I was out on Tuesday, it was Wednesday before I came forth ; but staid at home with my Wife, because I would not be among them.

Ld Ch. J. Did not you carry a green Apron on a Pole for your Colours ?

Pris. My Lord, as I pass'd along by the Rout, they flung a Bottle at me, and had like to have knockt me down, and tore my Apron off, and charg'd me to carry it on a Pole ; and I would fain have come away from them, and could not.

Ld Ch. J. Make this appear, that you would fain have got away, and that they did force you to do what you did, and I shall be glad of it.

Pris. There is none of them here now that were there then.

Ld Ch. J. Then all that you say is of little use ; for it is no great thing to make a Lye to save one's Life.

Pris. God is my Witness.

Ld Ch. J. Have a care what you say.

A Constable Witness sworn.

Ld Ch. J. What say you of these four at the Bar ?

Const. My Lord, I heard they were pulling down Houses, and I did what I could to preserve the King's Peace ; and that day I did save a great many Houses and Goods. The
next

next day they were near my own House, and I did endeavour to do the same, and this Fellow with his Company did surprize my Men, and knockt me down; yet I commanded the Peace, and they beset me round about, and cut me over the Hand: I do remember that *Beasley*. We were in a place where there were three Turnings, but they knockt me down, and beat me so, that I could not tell who it was that did hurt me.

Ld Ch. J. Do you know any more of this Company?

Witn. No, my Lord: for if the Soldiers had not come, they would not have left till they had kill'd me.

Couns. Had you your Staff?

Const. Yes; but they took it away from me.

Another Witn. I saw *Messenger* on Tuesday, tho he says to the contrary.

Ld Ch. J. *Messenger*, you hear what is said against you; you say you were not out on Tuesday: he hath sworn you were at the Head of a Company, with a green Apron on a Stick, and led them up.

Pris. I was not there.

Henry Bull Witn. I saw him, my Lord, on Tuesday, he and *Beasley*, about Eleven of the Clock in *Morefields*, and they had gather'd a great multitude of four or five hundred, and then they made an Attempt to come into our Parish, and they cry'd, *Down with the Redcoats.*

Messenger Pris. Pray, my Lord, let my Witnesses be call'd in, for they swear false.

Ld Ch. J. Your Witnesses shall be call'd, a little of due consideration beforehand would have done you more good than now.

Mr. Glover, and Mr. Bennet, the Prisoner's Witnesses.

Ld Ch. J. What say you concerning the Prisoner?

Glover. I can say, my Lord, he was till five of the Clock on Wednesday at Mr. Bennet's House in Golden-Lane.

Ld Ch. J. Where was he on Monday and Tuesday?

Glover. I know not.

Bennet. On Wednesday he was at a Kinsman's House.

Ld Ch. J. These two Witnesses giveno account at all of you, where you were on Monday and Tuesday.

Ld Ch. J. *Greene*, what say you?

Greene. I was not among them.

Ld Ch. J. It is sworn you were amongst them, and threw up your Cap. Were you not knockt down?

Prisoner. Yes, my Lord.

Ld Ch. J. How could you be knockt down if you were not amongst them?

John Cowley Witness.

Ld Ch. J. Did you not see *Greene* in the Multitude?

Cowley.

Cowley. I see him do nothing'; but I see him with a Staff in his hand, I did not see him act any thing but follow the Colours.

Greene Pris. I was not among them but as I came home.

Ld Ch. J. You mean you did not take part with them, but you were there; it is sworn you were upon Tuesday following your Captain and the Colours; it is sworn by Mr. *Bull* you were among the Rabble, and were knockt down: now if the Jury do not believe that you did act among them, we will leave it to them.

Ld Ch. J. *Appletree*, what say you?

Appletree. As I was passing along (my Lord) I saw a Croud, and I went to know what was the matter, and there came a Company down, and some running after me did me a mischief; I did not see the Constable, nor say, Knock him down.

Ld Ch. J. It is sworn that you were the first Man that struck the Constable, and that you were at the pulling down of *Burlingham's* House.

Pris. I did not offer to pull down his House, nor strike the Constable.

Abraham Brookes Witness. My Lord, he was in *Peter Burlingham's* House, and broke it down so that you might have riden a Horse thro it; I spake to him two or three times to leave off, and if I had not stoopt suddenly he had struck me down with a Bedstaff.

Cowley

Cowley Witness. I did see him on Tuesday with their Company, and I did see him strike at the Constable.

Ld Ch. Justice to the Jury. Gentlemen of the Jury, you have heard what these say ; the Prisoners are indicted for High Treason, for levying of War against the King. By levying of War is not only meant, when a Body is gather'd together, as an Army is, but if a Company of People will go about any publick Reformation, this is High Treason, if it be to pull down Inclosures, for they take upon them the Regal Authority, the way is worse than the thing. These People do pretend their Design was against Bawdy-houses ; now for Men to go about to pull down Houses under the pretence of Bawdy-Houses, with a Captain, and an Ensign, and Weapons ; if this thing be indur'd, who is safe ? It is High Treason, because it doth betray the Peace of the Nation, for every Subject is as much wrong'd as the King ; for if every Man may reform what he will, no Man is safe : therefore this thing is of a desperate Consequence, we must make this for a publick Example : There is reason we should be very cautious, we are but newly delivered from Rebellion, and we know that that Rebellion first began under the Pretence of Religion and the Law, for the Devil hath always this Vizard upon it ; we know that that Rebellion began thus, therefore we have great reason to be very wary that

that we fall not again into the same Error, but it should be carried on with a watchful Eye. And because Apprentices hereafter shall not go on in this Road, we will have the solemn Resolution of all the Judges, and therefore you are to find it specially. You must find the matter of Fact, and we will assemble all the Judges together in a sober way, to give their Judgment, whether it be High Treason or no; not that we do doubt of it now, for we know it is High Treason, but for general satisfaction. It is prov'd that *Beasley* went as their Captain, with his Sword, and flourish'd it over his Head; *Messenger* was there with his Green Apron on a Pole in *Morefields* on Tuesday, and on Wednesday he was in the same Posture again.

Prisoners. My Lord, we would have our Witnesses heard.

Ld Ch. J. You shall have no wrong done to you.

As for *Green*, it is prov'd he was with them shouting, and casting up his Cap: now the Act that any one does in such a Tumult is the Act of all, if they all join together. He was on Tuesday following there, and on Wednesday he was taken. And then for *Appletree*, he was the first Man that struck the Constable, and pull'd down *Burlingham's* House.

Edmund

Edmund Bedle, Richard Latimer, to the Bar.

Bill of Indictment. You that are now call'd, being mov'd thro the Instigation of the Devil, and having not the Fear of God before your Eyes, have withdrawn your Obedience to our Sovereign Lord the King, and against him did imagine and contrive War and Rebellion the 24th day of *March*, with four or five hundred Persons in a warlike manner, array'd with long Pikes and other Arms, there met and assembled, against the Peace of our Sovereign Lord the King, his Crown and Dignity, &c.

Witnesses sworn.

William Badley,

John Maldey,

William Riggs,

John Williams.

King's Counsel. Gentlemen of the Jury, *Bedle* and *Latimer* stand indicted for High Treason; wanting that Love and Obedience that every Man ought to have of his King, did, the 24th of *March*, assemble themselves together, to the number of four or five hundred Persons, to levy War and Rebellion: If we prove this, you must find them guilty of High Treason.

Goaler of Finsbury Prison, Witness sworn.

Couns. Tell my Lord what you saw.

Witn. I can charge no particular Person, I was from home; and when I came home

home I found the Prison-Doors open, and they had let out their own Company and two others ; and I lock'd up the Prison Doors, and they gather'd together about the Prison, and there came their Captain with his Half-Pike, and commanded me to open the Door. I told them I would not open the Door. They told me, we have been Servants, but we will be Masters now ; and if you will not open the Door, we will do your Business for you by and by. They had Swords, and Belts, and Half-Pikes, and they did push at me ; and I came to a Parly with them when I saw there was no remedy. I let their Captain in, and when he could find none of his Company there, he went away ; but had it not been for the Company that stood without, I would have kept him fast enough.

Another Witness sworn.

Ld Ch. J. Were any of these that stand at the Bar, at *Clerkenwell* with a Stick in his Hand ?

Witn. Yes, my Lord, I saw *Latimer* there knocking at the Gate, and the Prison was broke open, and there came down Justice *Welsb* to them to disperse them ; but they let out two of their own Rabble, and two of the Felons.

Another Witness sworn. Nine of the Clock on Friday, I went to the Gate of the *New Prison*, and they came and clapt a Bar in between the Gates to open them, and I saw *Latimer* throwing Stones at the Windows. Justice *Welsb* being there, would have taken some
C of

of them ; and they cry'd out, *One die, and all die.*

William Riggs Witness, sworn. I saw *Bedle*, and took him ; their number was about four or five hundred ; and I got out two Files of Men, and took four Men more, whereof this *Bedle* was one of them.

Judg. What do you say to this ?

Latimer. This Man hath a Spite against me, my Lord ; for getting up behind the Coach, I let my Whip fall, and gave him a Lash.

Ld Ch. J. But what says the other against you ? What made you there ? And *Bedle*, what do you say for your self ?

Bedle Pris. My Lord, I was in *Southwark*, and came from thence to *Bishopsgate-street*, and met with a Friend, and we drank four Flag-gons of Beer, so that I got a little too much Drink in my Head, and I stood and look'd a while at the Prisoners in *Bishopsgate* ; and my Uncle coming along, I went with him a little way, and then turn'd about and left him. And there was a Man came and said, *Brother, will you not go and see what they do in the Fields ?* and it was my hard Fortune to be among them, but did not any hurt, blessed be God ; but I follow'd them without doing any harm, and they went down *Old-street* to *Clerkenwell* ; but I did not break the Prison, nor do not know where the Prison is : for there was a Company made up to them, and they began to run.

Ld

Ld Ch. J. What did you say when they run away? Did you not say, *Face about?*

Pris. Your Lordship heard so, but I did not say, *Face about.*

Ld Ch. J. You Gentlemen of the Jury, you see what their Indictment is: They gather'd a multitude together at *Clerkenwel*, and they had a Captain with a Half-Pike, that came to the Prison and forc'd open the Door, and brought out two of their own Crew, and two of the Felons; and they said, they had been Servants before, but now would be Masters; and they cry'd out, *One die, and all die.* And you have three Witnesses that swear, that these two were there, *Latimer* especially. The Keeper says, he was forc'd to come to a Parly with them, and took in their Captain, to give him Satisfaction that there was none other there of their Gang. *Bedle* says he was there but he was drunk, which is no sufficient excuse.

Richard Cotton,
John Earles,
William Wilde,

Richard Farrell,
William Ford, Call'd
to the Bar.

Their Indictment read.

Sir Philip Howard, Witness, sworn.

Ld Ch. J. *Sir Philip*, speak what you know of these Men.

Sir Ph. I deliver'd these Men into the Constables Hands.

Counf. Did you not see a multitude of these People gather'd together in a warlike Way? if so, tell my Lord?

Sir Ph. There came some sober People, and told me that the Tumult was greater than it was when my Lord *Craven* was there, and they did desire my Assistance; and so I went into the Fields, and divided my Men half on the one side, and half on the other: and the People look'd upon us so contemptibly, that they told us we should quickly be unhors'd; therefore I charg'd my Men not to let any Man come within my Arms.

Ld Ch. J. Had they any Colours?

Sir Ph. They had a Sheet for their Colours, and when they saw my Horse they got into the Field, and stood as if they did not fear us; and I order'd some of my Men to go and take him that had the Colours, and so our Men did; and I call'd for a Constable, but there was no Constable to be found: and I thought my self to govern them, and to bring them into better order. At length this Man came with his Watch, and I deliver'd them into his Hands, and I believe these are the Men that I deliver'd to the Constable.

Sir Edward Fish, Witness, sworn.

Counf. Pray, Sir, look upon the Prisoners, and see if you know any of them.

Witn. I cannot say that these were any of the Persons that we did take, but there was a multitude of them gather'd together, and we did

did desire them to go home; and they took up Brickbats in their Hands, and said, *They had as much to do there as we had.* I took a Hanger from one of them my self, which is here in the Court.

Robert Hoydon, Witness, sworn.

Counf. Tell my Lord what you heard this Rabble of People say.

Witn. There came a Troop, and they thought it had been the Duke of York's Troop, and they ran with Brickbats in their Hands to them, and said, *That if the King did not give them Liberty of Conscience, that May-day must be a bloody Day.*

Another Witness sworn.

Ld Ch. J. Speak what you know of these People.

Witn. My Lord, they ask'd if the Duke of York were there, and Answer was made, Yes, thinking they would have been satisfy'd and dispers'd; but notwithstanding they came up to the Windmills, and flung Stones amongst us.

Capt. Wilding, Witness, sworn. My Lord, we did desire them, by fair means, to disperse themselves, and go home; they told me *No, They would be with us 'ere long at White-hall.*

Another Captain sworn. My Lord, I was forc'd to make some Resistance, but they flung Stones very thick at us, saying, *These Life-Guard Rogues are but a few;* and because I commanded

manded one of my Officers to seize on one of them, they cry'd, *Knock down the Rogue.*

Another sworn. My Lord, I desir'd them to go home; their Answer was, *That we were Rogues and Dogs, and 'ere long they would come and pull White-hall down: and their word was, Hey now or never.*

Constable sworn. My Lord, I had these three at the Bar; but *Wilde* was none of them, pointing to the third.

Ld Ch. J. You say the other were.

Constable. Yes.

Pike and Gillington, Witnesses, sworn.

Pike. I did see this *Cotton* breaking down *Burlingham's* House.

Gillington. I can speak of the tall Man *Cotton*, I will swear he was one of them.

Ld Ch. J. Sir *Philip Howard* says he deliver'd Five to the Constable, and the Constable says he does not know whether these be the Persons or no, but it is the same thing if they were among those that did it.

Serj. Wilde. Yea, the thing is the same.

Ld Ch. J. You hear your Indictment is for High Treason, you are Persons of the same Company, what do you say for your selves?

Prisoners. We were not there.

Serj. Wilde. The Constable swears it.

Constable. I cannot say, these were they, but two of them, *Farrell* is one.

Pris. I was walking to *Islington*, and I did march a little way with them, but did nothing.

Ld

Ld Ch. J. Where were you taken?

Pris. By *Hollawell-Lane*, and I was all alone, and a Horseman rode after me, and ask'd me, if I were not one of them.

Ld Ch. J. All the Constable can say is this, There were Men delivered to him from the Guard, and this Man does not deny but that the Guard took him, but he did nothing, but many People are walking abroad in the Holidays; it is pity to take away a Man's Life without sufficient evidence.

Ld Ch. J. Farrel, What do you say?

Farrel. I was with my Father and Mother all the Holidays.

Ld Ch. J. Cotton, What say you?

Cotton. I came through *Moor-fields* about noon, and I was taken by one of the Life-Guard.

Serjeant Wilde. But you were pulling down a House.

Witn. He was pulling down a House on Monday, I was inform'd, and he was commonly among the Players at Pidgeon-holes; and after he had been pulling down a House, he was looking about to see what he could light of.

Pris. As I have a Soul to save he swears falsely.

Ld Ch. J. Have a care what you say.

You Gentlemen of the Jury, here are five Men more that are indicted for the same Disorder that the rest were, and we have now

a little more Discovery of their Rising, and we have discover'd other Colours, for they thought the Duke of *Tork* had been in the Fields, and that enrag'd them the more, they taking Sir *Philip Howard* for the Duke of *Tork*; and when they did desire them to disperse themselves and go home, they said, They would not for such Rogues as the King's Life-Guard were, but they would soon be at *White-hall*: but you shall see what a Disguise is put upon it, If the King will not give us *Liberty of Conscience*, *May-day* shall be a bloody Day. This is, Gentlemen, to give us an Alarm, that we may not be too secure: And this must be punish'd as High Treason, else we do destroy all. I think no body would have the Innocent to suffer: I had rather a guilty Person should escape, than a guiltless Person suffer. You hear the Constable cannot swear that all those were the Men, and some others, because in such a Hurry a particular Person cannot be known: except you know any of them by sight, I cannot see how you can find them guilty; God forbid.

John Richardson,
Thomas Limberick,

Richard Woodward,
to the Bar.

Couns. You Gentlemen of the Jury, these three that were call'd last to the Bar stand indicted as the others, for levying War and Rebellion in *Holborn*; you shall hear the Evidence,

dence, and if we make good the Evidence, you must find them guilty.

William Rogers, sworn Witness. My Lord, I found this Man at the head of a Party, and I took him, and committed him to the charge of a Company.

Ld Ch. J. Was he leading them on? Are you sure he was there?

Witn. He will not deny that he was there, but he made no resistance at all; for we had three or four Companies ready to surprise them.

Mrs. Burlingham, Witness, sworn. My Lord, this was the first Man that laid hands to pull down my House.

Serj. Wilde. Mistress, was yours a Baudy-house?

Mrs. Burlingham. No; but they drag'd me out of it.

Ld Ch. J. Was your House pull'd down?

Husband's Answ. Yes: and all my Goods destroy'd, and Ten Pounds in Gold taken out of my Wife's Pocket.

Another Witness sworn.

Judg. What can you say of *Woodward*?

Witn. I cannot say he did take any thing out of the House that I know of.

Ld Ch. J. I do not ask you that; But did he go along with them, or had he a Staff in his Hand?

Witn. That *John Richardson*, my Lord, is a Tapster; I heard him say he had made

D

Work

Work for us, for he had help'd to pull down a House.

John Hand, Witness, sworn. My Lord, on *Saturday* last at six of the Clock, I heard him in the red Hair say, *I have made Work for you all*; I do not know what he is.

Ld Ch. J. What do you say for your self?

Limerick Prisoner. My Lord, I went up to see what the Tumult was doing, for I lodg'd hard by; and when they had pull'd down the House, some run one way, and some another; and I was going to *Westminster*, and as I was walking up *Holborn*, the rest of them were at my Heels.

Ld Ch. J. That was because you was their Captain, and drag'd the Woman out of the House that says she hath lost all she had. *Woodward*, what say you?

Woodward. My Lord, *Mr. Brooks* gave me a black Pot to drink, and I staid no longer than the drinking of that.

Ld Ch. J. What do you that say that *Richardson* pull'd down the Woman's House?

Pris. My Lord, there was a Whore that clap'd hands on me, and I wrung my self from her, and told her that her House should be pull'd down.

Ld Ch. J. Truly I see scarce an Apprentice among you all, and I am glad of it there is no more.

Witn. I dog'd him home to his Master's House, but did not lay hold on him.

Pris.

Pris. I am very innocent of any thing of hurt that I did.

Ld Ch. J. Prove it.

Pris. I was alone, How can I prove it? I was not all the Holidays abroad.

The Apprentice's Master. All Monday he was at home, and on Tuesday he was at home.

Serj. Wilde. It is impossible for him to be one of them, you might mistake.

Ld Ch. J. You Gentleman of the Jury, in this case take notice: As for *Woodward*, they say he was there with a Stick in his Hand. I would have you take notice that there is but one Witness: for the other you have his own Brags, if you will believe him, that he pull'd down a House, you have no other; if you will believe him to be a bragging Fool, you may. And now for *Limerick's* Witness, he shall be heard.

The Prisoner's Witness.

Ld Ch. J. What do you know of the Prisoner at the Bar?

Witn. This Man, my Lord, did lie in my House, and he did never stay out after Nine or Ten of the Clock: He was at home every Night betimes, and did give me all his Mony to lay up, and he did earn Sixteen Pence a day.

Another Woman, Witness, sworn.

Ld Ch. J. What can you say?

Witn. My Lord, I can say nothing but that he is a very honest Man.

John Sharpetisse, Prisoner at the Bar.

His Indictment read.

Couns. Gentlemen, he at the Bar stands indicted for High-Treason, and stirring up Rebellion in *Popular* at the head of Five hundred Persons, and pulling down Houses in *Ratcliffe* High-way, which we shall endeavour to prove.

John Harding, *Owen Maxum*, Witnesses call'd, but came not in against the Prisoner.

Ld Ch. J. Gentlemen of the Jury, you know for matter of fact you are Judges: if you are not satisfy'd in the Evidence, then you cannot find them guilty. Consider who those Persons are, where the Evidences have not given sufficient satisfaction.

The Sum of the Jury's Verdict.

THE Jury being dismiss'd to consider of their Verdict, after a short stay they return'd, and found as to *Messenger*, *Apple-tree*, *Beasley*, and *Greene*, that according to the Time in the Indictment mention'd, they were met together in a riotous manner in *East Smithfield* in *Middlesex*, and about *Moor-fields*, under colour to pull down the Baudy-Houses. That their Caprain was
Beasley,

Beasley, who led them on with his Sword drawn, and that they had their Ensign carry'd by *Messenger*, which was an Apron carry'd upon a Pole, and so they march'd with their Conductor. That they resisted the Constable who charg'd them in the King's Name to keep the Peace, and struck him, and took away his Staff; and that these several Persons were Abettors in that Tumult.

And as to *Bedell* and *Latimer*, they found that a great number of People were met together arm'd with Swords, Clubs and Staves, &c. at *Clerkenwel-green*, to break *New-Prison* there; and had their Commander, who had a Pike in his Hand, and came to *New-Prison*, and releas'd the Prisoners, some whereof were committed for Felony; and that when they were commanded to be gone, they cry'd out that they had been Servants, but now they would be Masters; and that these Persons were seen acting in the Tumult, and there taken.

As for *Cotton*, they found, that the riotous Persons were met together upon the 24th of *March* with a great number of People arm'd with their Swords, and such like warlike Weapons, for pulling down Baudy-houses: that when Sir *Philip Howard* with the King's Guards came up to them, and commanded them to depart, they refus'd; and when it was given out that Sir *Philip Howard* was the Duke of *York*, thinking thereby they would be

be appeas'd, they were enrag'd the more, and declar'd, that if the King would not give them Liberty of Conscience, they would make *May-day* a bloody *May-day*, threatening to pull down *White-hall*; and very contemptuously slighted the King's Guards, because they were but a small number: and this *Cotton* was prov'd to be one of them in the Action, and all along acting in the Riot.

And further, as to *Limerick*, he was met with the same Pretence of pulling down of *Baudy-houses*, being arm'd as the rest were, and was own'd by the Rabble to be the Captain of their Company: that he with his Companions pull'd down the House of *Peter Burlingham*, and stole his Goods. The rest were found not guilty.

The Jury having thus found it specially, my *Lord Chief Justice* commanded the Prisoners again to the Bar, to whom he spoke to this effect: That we all now see what great Cause we have to bless God, that we live under so merciful a Prince, and so good a Law as we now find we do live under; and that not only one Prince hath been so merciful, but such has been the Graciousness of other former Kings of *England*, that we shall rarely find any Severity us'd in the execution of Penal Statutes, where any fair means (which constantly hath been us'd) could have any effect at all. That our Justice is not privately but publickly administer'd in the sight of all
People,

People, like a Beacon that gives warning to all; so that all might take notice thereof, and avoid the like Danger that others have fallen into. That the Prisoners more especially ought to bless God, and seriously to reflect within themselves this great Mercifulness of our King and Law: for hereby they see they have not been serv'd so as they have serv'd others (for then upon the very apprehending of them they might have receiv'd their Execution) but contrariwise, they have had a fair Trial, not by Strangers, but by their own Country and Neighbours, having had the Liberty to speak what they could for themselves, and Witnesses for them, so that if it were possible all might have been found innocent; and he heartily wish'd all could have been so found; and that some, blessed be God, are not found guilty, and to them he hop'd this would be a sufficient Warning, &c.

Now as to all these Eight, against whom the Verdict was specially found, the Court took further time (because they would advise thereof) before they would give their Judgment whether High-Treason or no, it being declar'd by my *Lord Chief Justice* to be Matter of Law; and in the mean time these Persons are to remain in safe Custody in his Majesty's Goal at *Newgate*.

And

And for the other Six, viz.

<i>John Earls,</i>	<i>Richard Farrel,</i>
<i>William Wilks,</i>	<i>John Richardson,</i>
<i>Richard Woodward,</i>	<i>William Ford;</i>

The Jury found them not guilty, and so acquitted them of the Offence whereof they stood charg'd, who after several Admonitions by the Court for their future good Behaviour, were discharg'd.

T H E

THE
 Lord Chief Justice KELING'S
 REPORT
 OF

The Judgment of the JUDGES in
 relation to the aforesaid TRYAL.

Memorandum, That at
 the Sessions at the *Old-
 Baily*, after *Easter*, in
 the Twentieth Year
 of K. *Charles II.* several dissolute
 Persons having on *Easter-Tuesday*
 and *Wednesday* next before assem-
 bled together, and led by Per-
 sons whom they call'd Captains,
 and having Colours, viz. Aprons, &c. on
 Staves, went to several Places on pretence to
 pull down Bawdy-houses, and break open
 Prisons and set Prisoners at Liberty ; and ha-
 ving actually pull'd down some Houses, and
 E broke

Messenger,
 Appletree,
 Beally,
 Green, and
 others indicted
 for levying War
 and pulling
 down Bawdy-
 Houses, and
 breaking open
 Prisons.

broke up the Prison at *Clerkenwel*, and let out four Prisoners there, were by the direction of the King's Council, *viz.* Mr. Attorney, Sir *Jeffery Palmer*, having Order to proceed against them, he directed four Indictments to be prefer'd against them, who were taken, *viz.* one Indictment against *Peter Messenger*, *Richard Beasley*, *William Green*, and *Thomas Appletee*, and another Indictment against *Edward Cotton*, and a third against *Edward Bedell* and *Richard Latimer*, and a fourth against *Thomas Limerick*. All the Indictments were, that they with other Persons to the number of 500, unknown to the Jurors, being arm'd in a warlike manner with Swords, Half-pikes, Halberts, long Staves, and other Arms offensive and defensive with Force and Arms, unlawfully and traitorously assembled themselves together, and levied War against the King, &c. And first I told them they had not done well to make so many several Indictments, for by that means the King's Evidence would be broken; whereas if all had been put into one Indictment, the Evidence as to the main Design would have been intire against all: and then the assembling in several Places to the same Intent had made the matter more foul, and would have been aptly given in Evidence against them all to the same Jury, and the several Acts which each of them did, would have come in better. But however we proceeded upon the Indictments as they were; and

and after the Evidence given against the four in the first Indictment, when I came to give Directions to the Jury, I told them that altho I was well satisfy'd in my own Judgment, that such assembling together as was prov'd, and the pulling down Houses on pretence they were Bawdy-houses, was High Treason, because they took upon them Regal Power, to reform that which belong'd to the King by his Law and Justices to correct and reform; and it would be a strange way and mischievous to all People to have such a rude Rabble without an Indictment to proceed in that manner against all Persons Houses which they would call Bawdy-houses, for then no Man were safe; therefore as that way tore the Government out of the King's Hands, so it destroy'd the great Privilege of the People, which is not to be proceeded against, but upon an Indictment first found by a Grand-Jury, and after upon a legal Tryal by another Jury, where the Party accus'd was heard to make his Defence: yet I told them, because the Kings of this Nation had oftentimes been so merciful, as when such Outrages had been heretofore done, not to proceed capitally against the Offenders, but to proceed against the Offenders in the Star Chamber, being willing to reduce their People by milder ways if it were possible to their Duty and Obedience; yet that lenity of the King in some Cases did not hinder the King when he saw

there was need to proceed in a severer way, to take that course which was warranted by Law, and to make greater Examples, that the People may know the Law is not wanting so far to the safety of the King and his People, as to let such Outrages go without capital Punishment, which is at this time absolutely necessary, because we our selves have seen a Rebellion rais'd by gathering People together upon fairer Pretences than this was: for no such Persons use at first to declare their wickedest Design; but when they see that they may effect their Design, then they will not stick to go further, and give the Law themselves, and destroy all that oppose them. But yet because there was no body of the Long Robe there but my Brother *Wylde*, then Recorder of *London*, and my self, and that this Example might have the greater Authority, I did resolve that the Jury should find the matter specially, and then I would procure a meeting of all the Judges of *England*, and what was done should be by their Opinion, that so this Question might have such a Resolution as no Person afterwards should have reason to doubt the Law, and all Persons might be warn'd how they for the time to come mingle themselves with such Rabble on any kind of such Pretences: and thereupon the Jury as to the first four in the first Indictment gave a Special Verdict to this effect, *viz.*

They

They find that the 24th of *March* last, a great number of Persons to the number mention'd in the Indictment were assembled in *East-Smith-field* and *Moor-*

*A Special
Verdict as to
Messenger,
Appletree,
Beasly and
Green.*

fields in the County of *Middlesex*, with Arms mention'd in the Indictment, on pretence of pulling down Bawdy-houses; that *Beasly* led them, and was call'd their Captain, and had in his Hand a naked Sword which he brandish'd over his Head; and that *Messenger* had a piece of green Apron on a Staff, which he flourish'd as Colours in the Head of the Company; and that *Beasly* and he led the Company as their Leaders; that they did the like on *Wednesday* the 25th of *March*, and were breaking down Houses. That *Peverell*, one of the Constables of *Middlesex*, having a Constable's Staff in his Hand, came to them with other Persons to aid him, and charged them to depart and keep the Peace, and thereupon *Beasly* with his Sword struck him, and wounded him; and several Persons assembled with him, struck him down, and took away his Constable's Staff. That the said *William Green* was among them casting up his Cap, and following, with a Staff in his Hand; and that whilst he was amongst them he was knock'd down by a Party of the King's Soldiers that came to suppress them, and was then taken. That *Beasly* struck

struck at the Ensign that led those Soldiers. That the said *Appletree* was amongst them both Days, and was the first that struck at *Peverell* the Constable, and was amongst them at *Burlingham's* House on *Saffron-Hill* in the County of *Middlesex*, and pull'd part of the House down, and the next House to it, and struck at one that admonish'd him to be quiet. And if upon the whole matter, it shall seem to the Court that they are guilty of the Offence mention'd in the Indictment, then they find them guilty, &c.

Special Verdict
also as to
Cotton.

On the Second Indictment as to *Cotton* alone, the Jury did find that at the Time and Place mention'd in the Indictment, a great number of Persons, to the number mention'd in the Indictment, met together arm'd with Swords, Clubs, Staves, and other Weapons, under pretence of pulling down Bawdy-houses, and had a Cloth on a Staff for an Ensign carry'd before them. And that Sir *Philip Howard*, with a Troop of the King's Guards, found them arm'd in such seditious manner, and commanded them to disperse; that they refus'd so to do, and threw Stones at him; that some of them enquir'd who it was that led those Guards, whether it was the Duke of *York*? and being told it was, they presently threw Stones at Sir *Philip Howard* who led the Horse; and some of them said, that unless the

the King would give them Liberty of Conscience, *May-Day* should be a bloody Day; others bid kill the Guards, and others said, that they would come and pull down *White-hall*; and others said, they would be with them at *White-hall*, (the King's Capital Palace) and that they car'd not for the Guards, for they were but two or three hundred, and they could easily knock them on the head; that they continu'd many Hours till they were dispers'd by the Guards. That *Cotton* who was indicted, was one of them assembled in this manner, and that *Cotton* was amongst them the next day when they were assembled in the same manner, and was pulling down a House in the Parish of *St. Leonard Shoreditch* in the County of *Middlesex*; and if on the whole matter, &c.

On the Third Indictment against *Bedell* and *Latimer*, the Jury find that the Day and Place mention'd in the Indictment, a great number of Persons to the number mention'd in the Indictment, arm'd as in the Indictment, did meet together on *Clerkenwell-green* in the County of *Middlesex*, on pretence of breaking open Prisons, and releasing Prisoners; that one of them who had a Half-pike in his Hand, own'd himself to be their Captain; that they came so assembled together to a Place there call'd the *New-Prison*,
being

*Special Verdict
on the third
Indictment,
Bedell and
Latimer.*

being a publick Prison of the County of *Middlesex*, and then and there said, that they came to search for Prisoners; and brake open the Prison-Doors, and let out four Prisoners, two whereof were committed thither for Felony, and two for other Offences; and that they being charg'd to depart, reply'd, they had been Servants long, but now they would be Masters; that some being taken, they cry'd, One die, and all die. That *Lati-mer* was amongst them, and active in breaking of the Prison, and was with the rest in the Prison after it was broken open; and that *Bedell* was there, and being pursu'd by one of the King's Soldiers, call'd out to the rest of the Company to face about, and not to leave him: and if on the whole, &c.

*Special Verdict
as to Limerick.*

On the fourth Indictment against *Lymerick* the Jury find, that the Day, Year and Place in the Indictment mention'd, a great number of Persons to the number, &c. assembled together on pretence of pulling down of Bawdy-houses; and being arm'd *prout* in the Indictment, they march'd in warlike manner, and the said *Lymerick* led them as their Captain with a Club in his hand, and was own'd by the Company to be their Captain: That the said *Lymerick* had the said Persons to the House of *Peter Burlingham*, and they pull'd down the said House, and destroy'd and took away divers Goods

Goods of the said *Burlingham's*, to the value of 30 *l.* and if on the whole matter, &c.

And in *Easter Term* following, all the Judges met at my Chamber, there being then but eleven. My Lord *Bridgeman*, who was Chief Justice of the Common Pleas, being then Lord Keeper, the Judges were my self, Chief Justice of the King's Bench, Sir *M. Hale* the Chief Baron, and my Brother *Atkins*, Brother *Twisden*, Brother *Tyrell*, Brother *Turner*, Brother *Wyndham*, Brother *Archer*, Brother *Rainsford*, Brother *Morton*, and Brother *Wylde*.

And on the whole matter the Chief Baron *Hale* deliver'd his Opinion, that there was no Treason in the Case, because he said that the *Stat. 1 Q. Mary, cap. 12. is*, 'That if any Persons, to the number of twelve, or more, assemble to the intent to pull down Inclosures, &c. with force, and continue together an hour after Proclamation made for their departure, it shall be Felony; and if those Actions had been Treason at Common Law, it had been to no purpose to make it Felony.

But all the other Judges answer'd, That this was the Objection made by some Judges in the Case of *Bradshaw* and *Burton*, which is reported by *Popham* in his Reports, pag. 122. and there it was resolv'd, that if any Persons assembled with force to alter the Laws, or to set a Price on Victuals, or to lay violent hands on the Magistrate, as on the Mayor of *London*, and the like, and with force attempt

to put the same in execution, this is Rebellion and Treason at the Common Law ; and they there resolv'd, that that Statute of 1 *Mary* was to be intended, where Persons, to the number of twelve, or more, pretending any or all of them to be injur'd in particular, as by reason of their Common, or other Interest in the Land inclos'd, and the like, assemble to pull it down forcibly in cases where they have an Interest, or where in particular they are annoy'd or griev'd, that is not Treason: But in case their Act goeth generally to pull down Inclosures, in which they, or any of them, are not particularly concern'd, this Act, if it be put in execution by force, is Treason at Common Law. And it was agreed by us all, that the Statute of 13 *Eliz.* which maketh the Intention in many Cases Treason, extends to nothing, but where if the Act had been done, it had been Treason at the Common Law.

And therefore all the rest of the Judges did unanimously agree, that this Rising, with intent to pull down Bawdy-Houses in general, or to break open Prisons in general, and let out Prisoners, and putting their Intention in execution by force, any of these Instances was a levying War against the King, and High Treason at Common Law, within the Declaration of the Statute of 25 *Edw.* 3. and for that, besides the Resolution in *Popham's* Reports before cited, we consider'd the Case
of

of the Apprentices, reported in the second Part of *Anderson's Reports*, pag. 4, & 5. where it was resolv'd, that by the Statute of 13 *Eliz.* if any intend to levy War for any thing, which the Queen by her Laws and Justice ought to do, and reform in Government as Queen, this shall be an Intendment to levy War against the Queen within that Statute of 13 *Eliz.* And as we said before, nothing can be Treason by the Intention within the Statute, which had not been Treason by the Common Law, if it had been actually put in execution. And see the same Book of *Anderson*, Part II. pag. 66. and by the case of several Persons in *Oxfordshire* rising to pull down Inclosures in general, resolv'd accordingly; in which Case it was also resolv'd, that if any Persons rise and assemble together, with intent to levy War, the Justices of the Peace and Sheriffs may use force to suppress such Rebels, without any special Commission or Warrant, and this by the Common Law. And see *Popham's Reports*, p. 121. and a Resolution of all the Judges, 39 *Eliz.* that any Justice of the Peace, Sheriff, or other Magistrate, or any other Subject of the King, may, by the Common Law, arm themselves, to suppress Riots, Rebellions, or resist Enemies, and endeavour themselves to suppress such Disturbers of the Peace: But they said the most discreet way was for every one to attend and assist the Justices in such Case, or

other Ministers of the King in doing it : And *Cook, Pl. Cor. 9.* If any levy War to expulse Strangers, to deliver Men out of Prison, to remove Counsellors, or to any other end pretending Reformation on their own heads without Warrant, this is a levying of War against the King, because they took upon them Royal Authority. And *Moor's Reports, pag. 620, 621.* in the case of the Earl of *Effex*, in which, amongst other things, it was resolv'd, that his Attempt with force to remove the Queen's Counsellors was High Treason; and likewise that the Earl of *Southampton*, who adher'd to him, altho he knew of no other purpose of the Earl of *Effex*, but a private Quarrel against some of the Queen's Servants, yet this was Treason in him, the Act of the Earl of *Effex* being Rebellion and Treason; and so it was also resolv'd, that all those who went with him out of *Effex-House* in aid of him, it was Treason in them, whether they knew any thing of his Intent or not. And *Cro. Part I. p. 583.* in *Benstead's* Case, it was resolv'd by all the Judges, That going to *Lambeth-House* in warlike manner with Drums, and a multitude, as in the Indictment, to the number of three hundred, &c. to surprize the Archbishop, who was a Privy Counsellor, was Treason. And, 2^{ly}. it was resolv'd that the Justices of Oyer and Terminer, may sit, enquire and try Prisoners all in one day. 3^{ly}. It was resolv'd, that the

the breaking of a Prison, wherein Traitors were in durance, and causing them to escape, was Treason, altho the Parties did not know that Traitors were there. And so to break a Prison whereby Felons escape, this is Felony, tho they do not know them to be in Prison for such Offence. *Note*, That Resolution as to breaking a Prison where Felons, &c. are, must (as I think) be intended only where the Intent was only to break open one Prison, and no more; for if the Design was to break open Prisons in general, and they put that in execution as to one Prison, that is High Treason according to the Books beforecited; but then on the Evidence it must be prov'd that their Intent was such, and by such proof as satisfieth the Jury.

After this Resolution in general, we went to consider the particular Cases as they were found upon the several special Verdicts; and thereupon it was agreed by all of us, except the Chief Baron, who said he doubted on the main; That as to *Messenger* and *Beasley* in the first Verdict, and to *Cotton* in the second special Verdict, and as to *Lymerick* in the fourth special Verdict, that the matter, as it was found against these four, was High Treason in them all, and accordingly they had Judgment, and were executed: But as to *Appletree* in the first special Verdict, and as to *Latimer* in the third special Verdict, there was difference in Opinion amongst us, whether the
Verdict

Verdict was sufficiently found against them to judg it High Treason or not. For besides the Chief Baron, who was against all, my Brother *Atkins*, *Tyrell*, *Windham*, and *Wylde*, held that the Verdict was not sufficient against those two, for to give Judgment that they were guilty of Treason; because, they said, it was not expressly found that they were aiding and assisting. But my self, Brother *Turner*, *Twisden*, *Archer*, *Raynsford*, and *Moreton*, thought the Verdict, as it was found against them, to be as full and plain as any of the rest. For first as to *Appletree*, the Verdict first finds in general, that the number in the Indictment were assembled, as in the Indictment, with an intent to pull down Bawdy-Houses: That *Beasley* led them as their Captain; that *Messenger* had a Green Apron upon a Staff, which he flourish'd as Colours; and then that *Appletree*, the Person now in question, was amongst them both the days, and was the first that struck at *Peverell* the Constable, and was amongst them at *Burlingham's* House at *Saffron Hill*, and pull'd part of that House down, and the next to it, and struck at one that admonish'd him to be quiet; so that here are several Acts of Force found to be actually committed by him in pursuance of their Design, and then there is no need to find him to be aiding and assisting: for that Clause, we said, was only necessary to be found where the Jury find a Person was there among them,
and

and find no particular Act of Force done by him, but only his Presence, there it is necessary that they find he was present aiding and assisting. And for the same Reasons we held the Verdict to be full also against *Latimer*, because it was first found that the multitude was assembled, as in the Indictment, on pretence of breaking Prisons and releasing Prisoners in general, which is agreed by all (except the Chief Baron) to be Treason; and then they find that *Latimer* was amongst them, and active in breaking open the Prison at *Clerkenwel* (where Prisoners, some for Felony, and others were let loose) and that he was with the rest in the Prison after it was broken open, and so an Act fix'd upon him. But altho six of us were well satisfy'd in our Judgments as to them, yet when I waited on the King, I acquainted him there was some difference in Opinion as to those two upon finding of the special Verdict; and altho the greater number of us were of Opinion, that the Verdict was well found as to those also, yet I intreated his Majesty to make use of that difference in Opinion to shew his Mercy towards them, the rather because we had agreed, that as to four of them the Verdict was clearly good as to proceed to Judgment against them, and that I hop'd would be example enough to deter others from the like Practices; and besides it would appear an Instance of his Majesty's great Mercy, that he would not proceed

ceed to the last extremity against any, where there was not a full Concurrence of all his Judges: which his Majesty was pleas'd to take very graciously, and order'd me to proceed accordingly, and so they two were spar'd. But as to *Green* in the first Special Verdict, and *Bedell* in the Third Special Verdict, we all agreed that the Verdict was not full enough as to them for us to judg it Treason in them, because the Verdict only finds that they were present, and finds no particular Act of Force committed by them, and doth not find that they were aiding and assisting to the rest; and it is possible one may be present amongst such a Rabble only out of curiosity to see: and whether they were aiding and assisting is matter of Fact, which ought to be expressly found by the Jury, and not be left to us upon any colourable Implication; and accordingly these two were discharg'd.

FINIS.

Ex. J. M.

6/3/12